

Criminal Law Symposium

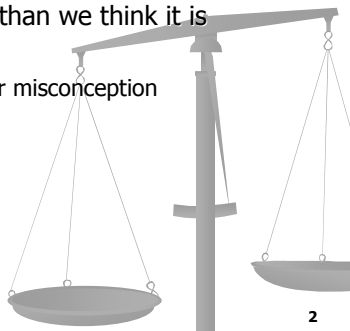
Hearsay Evidence Session

Hon. William J. Giovan
3rd Circuit Court
Detroit



Common Misconceptions

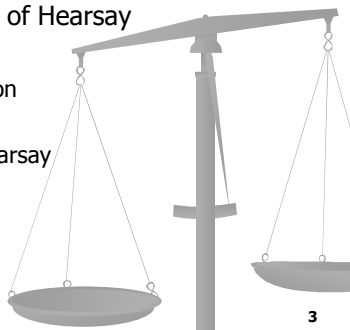
- Hearsay is less than we think it is
 - Reasons for our misconception



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Common Misconceptions

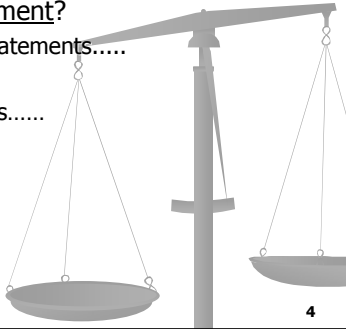
- The Vocabulary of Hearsay
 - Typical definition
 - Elements of hearsay



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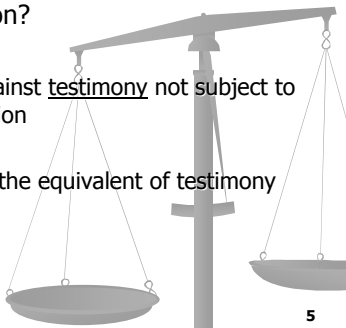
Common Misconceptions

- What is a Statement?
 - Some typical statements.....
 - A "statement" is.....



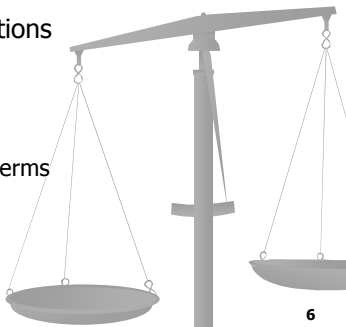
Common Misconceptions

- Why an assertion?
 - ...to protect against testimony not subject to cross-examination
 - An assertion is the equivalent of testimony



Common Misconceptions

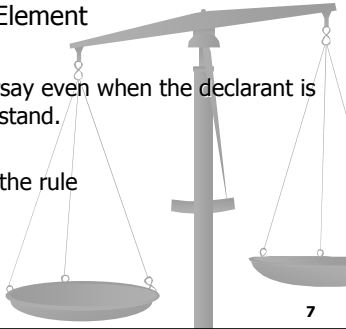
- "Implied" Assertions
 - What is it?
 - Contraction in terms
 - The law



Common Misconceptions

- "Out-of-Court" Element

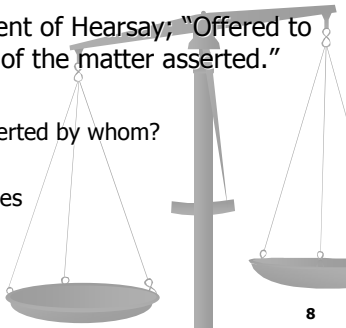
- Hearsay is hearsay even when the declarant is on the witness stand.
- The rationale of the rule



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Common Misconceptions

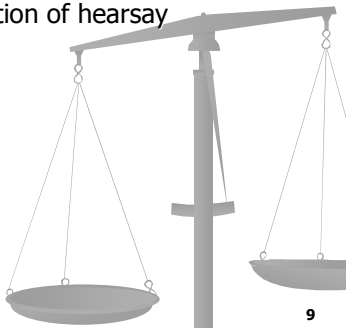
- The Third Element of Hearsay; "Offered to prove the truth of the matter asserted."
- The matter asserted by whom?
- Specific examples



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Common Misconceptions

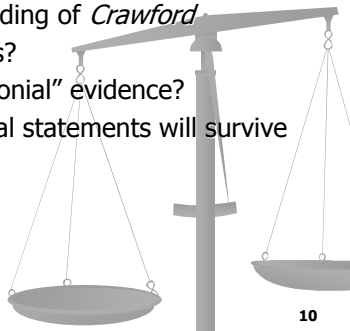
- A precise definition of hearsay



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Applying *Crawford v Washington*

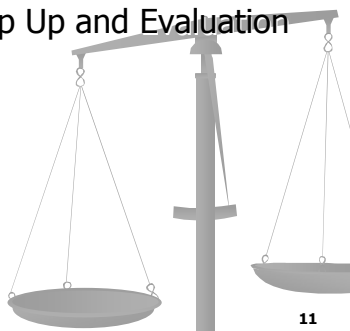
- The specific holding of *Crawford*
- So why the fuss?
- What is “testimonial” evidence?
- What testimonial statements will survive the new test?



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Hearsay Evidence

- Session Wrap Up and Evaluation



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